

June 10, 2005

Commissioner Robert E. Nicolay
Chairman, Certificate of Need Task Force
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Dear Commissioner Nicolay:

I am writing to provide comment on the Maryland Certificate of Need (CON) program for consideration by the Task Force assembled by the Maryland Health Care Commission (MHCC). Thank you for your leadership of this important effort and for the opportunity to provide comment.

As you may know, Adventist HealthCare is one of the largest employers and health systems in Maryland. We have been working to meet the health care needs of the communities we serve for nearly 100 years and are committed to fulfilling our mission of delivering excellent health care through a ministry of physical, mental and spiritual healing. With more than 6,000 employees, Adventist HealthCare operates acute care hospitals, specialty hospitals, senior care services, home care services, outpatient clinics and other health care services.

In general, Adventist HealthCare believes the overarching goal of the CON program should be to enhance access to necessary health care services for all Maryland residents. As such, the program should be flexible for unique situations in individual communities, should render comment and decisions in a timely manner, and should simplify the application and approval process.

With these broader themes in mind, following are comments on specific elements of the CON program.

1. Revise/update the State Health Plan, Deleting Irrelevant Standards

The current State Health Plan includes elements that are outdated or unnecessary. The document should be reviewed and updated regularly, especially since the State Health Plan is the primary tool for determining need for health care services in Maryland. The credibility of the CON oversight process is enhanced with an updated State Health Plan.

2. Increase the Capital Threshold From \$1.6M to \$10M

Presently, the MHCC requires hospitals to file for a CON if they propose expansion projects in excess of \$1.6 million. Given the continually rising cost of health care services, we believe this threshold is outdated. We suggest that the CON filing trigger for expansion projects should be raised to \$10 million. This would allow the MHCC to focus its resources on major projects rather than smaller projects with less impact.

3. Establish Reasonable Timelines

Certain timelines established in the CON review process are unrealistic. One example is the quick turnaround often required for completeness questions both on the part of MHCC and the applicant. This may result in inaccurate or incomplete information provided, and may ultimately slow the overall review process or render it less effective. In addition, the MHCC often has extensive leeway in rendering decisions or does not adhere to established decision-making timeframes.

4. Adhere to Established Timelines

The Maryland CON program provides a more effective service for health care providers when it adheres to pre-established decision-making timelines. The relevance and accuracy of data provided in applications changes over time when reviews are extended, resulting in significant re-work. Missing deadlines increases costs to providers, delays the availability of services to communities and undermines the credibility of the CON program.

5. Eliminate the Capital Threshold for Information Technology (IT) Services

Given the necessity and commonality of IT services for effective patient care, this expense should be eliminated from review. IT services should be treated as business or office equipment related to patient care.

6. Provide Expedited Reviews for Some Projects

A CON review for projects that are contested or that seek to add more licensed beds to the health care system are naturally more complicated. However, certain projects that are relatively simple and do not materially impact other providers should receive an expedited review. We recommend the MHCC provide an expedited review for projects under the following situations: 1) Projects that are uncontested; 2) Projects that do not request additional licensed beds; 3) Projects that are not seeking a new health care service. This will help the MHCC focus more of its resources on major projects and will speed the decision-making process for all applications.

7. Tighten Criteria to Qualify as Interested Parties

The current rules for filing as an interested party in a CON review are too lenient. As a result, projects get bogged down by opposing parties that are not materially affected but who may have an interest in negatively impacting that filing party. Interested party filings should be limited to those who can demonstrate a material impact from the project under review.

8. Require Site Visits on all Major Projects

We believe a decision is best rendered on major projects when the decision-makers visit the location of the proposed project. This provides an added perspective and context not always apparent on paper. Maryland is a diverse state geographically and demographically, and what may be appropriate in one jurisdiction may not be appropriate in another. A better decision is rendered when additional context is provided to the formal application.

9. Require Local Hearings on all Contested Projects

We believe the Commission should be required to conduct local hearings on all contested projects to ensure appropriate context is provided for these decisions. Those most impacted by a given service are those who live in the community being served. As a result,

decision-makers should proactively seek the input of the community through a local hearing. Currently, it is too difficult for those who live in the community of a given service under review to render opinion in an effective manner. When public hearings are held, they are most often held in Baltimore which creates a travel hardship for local residents. Often, the only realistic opportunity for a local resident to give public comment is by letter, which limits the effectiveness of the opinion.

10. Re-evaluate Exemption for Physician-owned, Single Specialty Operating Rooms

We believe the current exemption from CON for physician-owned, single specialty operating rooms should be reviewed. These services may be duplicative of existing capacity at hospitals and they compete with hospitals for staffing. We believe the impact of these operating rooms should be more carefully reviewed.

11. Bed Need Projections Should be Consistent with Licensure Bed Capacity

Current law establishes bed capacity at 140 percent of average daily census which equates to an occupancy rate of 71.5 percent. However, when filing for a CON, applicants are required to base bed need projections on 80 percent of med-surg occupancy. Med-surg beds account for the vast majority of beds in most hospitals, meaning the overall occupancy rate is targeted at close to 80 percent. Bed need projections for CON applications should be consistent with the State's method for calculating a hospital's licensed bed capacity at the 71.5 percent occupancy rate.

12. Shell Space & Surge Capacity

The MHCC should provide for more flexibility in allowing hospitals to establish shell space based upon clearly defined standards. This would save money when/if that space is needed to accommodate new technology or to handle changes in the delivery of care. It also would provide for surge capacity, a growing concern given the threat of bioterrorism or other mass causality disaster.

13. Eliminate Re-Docketing

Hospitals should not be required to re-docket applications for changes to the project beyond the applicant's control. Presently, if for any reason changes are made to the application, the hospital must start its process all over again, leading to increased cost and delays.

I am available to answer any questions you may have or provide further information if necessary.

Again, thank you for the opportunity to provide public comment and for your interest in bringing much needed improvements to the Maryland health care regulatory system.

Sincerely,

A handwritten signature in dark ink, appearing to read "William G. Robertson", with a long horizontal flourish extending to the right.

William G. "Bill" Robertson
President and CEO